

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA  
3

4 ERIC W. ZESSMAN,

5 Petitioner,

6 vs.

7 BRIAN WILLIAMS, *et al.*,

8 Respondents.  
9

Case No. 2:15-cv-00006-GMN-CWH

**ORDER**

10 This action is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C.  
11 § 2254 by a Nevada state prisoner. Neither a filing fee nor an application to proceed *in*  
12 *forma pauperis* was submitted with the petition. When filing a habeas action, petitioner  
13 must either submit the \$5.00 filing fee for habeas petitions or an application to proceed *in*  
14 *forma pauperis*. Due to the lack of an *in forma pauperis* application or filing fee, the present  
15 action will be dismissed without prejudice to the filing of a new petition in a new action with  
16 a pauper application with all required attachments. It does not appear from the papers  
17 presented that a dismissal without prejudice would materially affect a later analysis of the  
18 timeliness issue or other issues in regard to any promptly filed new action. In this regard,  
19 petitioner at all times remains responsible for calculating the running of the limitations  
20 period as applied to his case and properly commencing a timely-filed habeas corpus action.

21 **IT THEREFORE IS ORDERED** that this action is **DISMISSED without**  
22 **prejudice to the filing of a new petition in a new action.**

23 **IT IS FURTHER ORDERED** that the Clerk of the Court shall send petitioner two  
24 copies of an *in forma pauperis* application form for a prisoner, one copy of the instructions  
25 for the same, two copies of a blank 28 U.S.C. § 2254 habeas petition form, and one copy of  
26 instructions for the same.

27 **IT IS FURTHER ORDERED** that petitioner **may file a new petition in a new**  
28 **action, but he may not file further documents in this action.**

1           **IT IS FURTHER ORDERED** that a certificate of appealability is **DENIED**.  
2 Reasonable jurists would not find the dismissal of the improperly-commenced action  
3 without prejudice to be debatable or wrong.

4           **IT IS FURTHER ORDERED** that the Clerk of the Court shall enter judgment  
5 accordingly.

6           **DATED** this 13th day of January, 2015.

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Gloria M. Navarro, Chief Judge  
United States District Court